



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

April 22, 2022

The Honorable Michael F. Rice  
State Superintendent  
Michigan Department of Education  
608 West Allegan Street  
P.O. Box 30008  
Lansing, MI 48909

Dear Superintendent Rice:

I am writing in response to Michigan Department of Education's (MDE's) request on January 13, 2022, for a one-year extension of the State's waiver of section 1111(b)(2)(D)(i)(I) of the Elementary and Secondary Education Act of 1965 (ESEA) which stipulates that a State may not assess using an alternate assessment aligned with alternate academic achievement standards (AA-AAAS) more than 1.0 percent of the total number of students in the State who are assessed in the required subjects of reading/language arts (R/LA), mathematics, and science.

After reviewing MDE's waiver request, I am granting, pursuant to my authority under section 8401(b) of the ESEA, for school year 2021-2022, a one-year extension of the State's waiver of section 1111(b)(2)(D)(i)(I) of the ESEA so that the State may assess with an AA-AAAS more than 1.0 percent of the total number of students in the State who are assessed in R/LA, mathematics, and science.

As part of this waiver, MDE assured that it:

- Will continue to meet all other requirements of section 1111 of the ESEA and implement regulations with respect to all State-determined academic standards and assessments, including reporting student achievement and school performance, disaggregated by subgroups, to parents and the public.
- Had assessed in 2018-2019 at least 95 percent of all students and students with disabilities who are enrolled in grades for which the R/LA, mathematics, and science assessments are required. I note that while the State did not assess at least 95 percent of all students and students with disabilities in 2020-2021 due to the disruptions caused by the COVID-19 pandemic, it assessed students with disabilities at about the same rate as all students in 2020-2021. Therefore, consistent with information provided in the guidance to States on October 29, 2021,<sup>1</sup> I am also approving a one-year waiver of the requirement in 34 CFR § 200.6(c)(4)(ii)(B) that a State must have assessed at least 95 percent of students in the prior year.
- Will require that a local educational agency (LEA) submit information justifying the need of the LEA to assess more than 1.0 percent of its assessed students in any such subject with an AA-AAAS.

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<sup>1</sup> See: <https://oese.ed.gov/files/2021/10/Memo-to-States-re-One-Percent-Waiver-Requirements-2021-2022.pdf>.

- Will provide appropriate oversight of an LEA that is required to submit such information to the State.
- Will verify that each LEA that is required to submit such information to the State is following all State guidelines in 34 CFR § 200.6(d) – excluding (d)(6) and will address any subgroup disproportionality in the percentage of students taking an AA-AAAS.
- Will implement, consistent with the plan submitted in MDE’s waiver request, system improvements and will monitor future administrations of the AA-AAAS to avoid exceeding the 1.0 percent cap.

I want to remind you of the requirement in 34 CFR § 200.6(c)(3)(iv) that the State must make publicly available the information submitted by an LEA justifying the need of the LEA to assess more than 1.0 percent of its students on the AA-AAAS, provided that such information does not reveal personally identifiable information about an individual student. I also encourage you to make available your state’s plan and timeline and your progress to date in reducing the percentage of students taking the AA-AAAS. I would also like to remind you that this waiver does not alleviate any of the State’s obligations in meeting all the requirements found in section 612(a)(16) of the Individuals with Disabilities Education Act (IDEA) which address assessment participation, assessment accommodations, alternate assessments, and reporting for children with disabilities.

I appreciate the work you have undertaken to reduce the percentage of students taking an AA-AAAS in the 2020-2021 school year when compared to the 2018-2019 school year. I am pleased to see the positive results from your workplan, and I want to thank you for your continued efforts in achieving this. We hope this will be the last year that Michigan believes it needs this waiver.

I appreciate the work you are doing to improve your schools and provide a high-quality education for your students. If you have any questions, please contact my staff at [ESEA.Assessment@ed.gov](mailto:ESEA.Assessment@ed.gov).

Sincerely,

/s/

James F. Lane, Ed.D.  
Senior Advisor, Office of the Secretary  
Delegated the Authority to Perform the  
Functions and Duties of the Assistant Secretary  
Office of Elementary and Secondary Education

cc: Rebecca McIntyre, MDE Supervisor Office of Special Education



STATE OF MICHIGAN  
DEPARTMENT OF EDUCATION  
LANSING

GRETCHEN WHITMER  
GOVERNOR

MICHAEL F. RICE, Ph.D.  
STATE SUPERINTENDENT

January 13, 2022

Office of Elementary and Secondary Education Assessment Team  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, DC 20202  
[ESEA.Assessment@ed.gov](mailto:ESEA.Assessment@ed.gov)

To whom it may concern:

The federal Every Student Succeeds Act (ESSA) caps the percentage of students who can take the alternate assessment at 1.0 percent of the total students tested. The ESSA also allows states that may exceed the 1.0 percent cap to apply for a one-year waiver. Michigan applied for and was granted the initial waiver on May 14, 2018. In 2019 and 2021, the Michigan Department of Education (MDE) applied for and was granted an extension to the initial waiver by the U.S. Department of Education (USED). Michigan's 2020 waiver request was rescinded when USED waived assessment requirements due to the COVID-19 pandemic and subsequent school closures.

As part of the approved waivers, MDE agreed to implement a plan to ensure students with disabilities are properly assessed using the state's assessment system programs. MDE's implementation of this plan has resulted in a consistent annual decrease in overall alternate assessment participation rates. Despite this decrease, MDE anticipates exceeding the 1.0 percent cap in 2022. This document serves as MDE's formal request to extend the waiver through spring 2022. The waiver extension will allow MDE and local education agencies (LEAs) around the state to continue working to ensure appropriate assessment selection for students with disabilities and further reduce participation rates for Michigan's alternate assessment to meet the 1.0 percent cap requirement.

MDE is also requesting a waiver to the 95 percent participation rate sub-requirement found in 34 CFR 200.6(c)(4)(ii)(B), as described in the USED letter of October 29, 2021. The USED waived federal requirements for school accountability in Michigan for the 2020-2021 school year due to the disruption of instruction caused by the COVID-19 pandemic. Based on Michigan's waiver request, USED waived the requirement that the state assess with a participation rate of at least 95 percent. The spring of 2021 assessment participation was significantly lower than usual (72 percent, see Table 2) and under the 95 percent requirement, which was waived under the federal accountability waiver. In the spring 2019 assessment cycle, Michigan's participation rate was 98.6 percent. MDE expects to meet the 95 percent participation requirement in spring 2022 with the return to somewhat greater normalcy in assessment and instruction.

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In 2021, MDE reviewed participation data from statewide summative assessments that were completed before and during the pandemic. The purpose of the review was to compare and analyze the participation rates of students taking the state Alternate Assessment aligned with Alternate Academic Achievement Standards (AA-AAAS), better known in Michigan as MI-Access. MI-Access is aligned with the Michigan alternate content expectations in English language arts (ELA), mathematics, science, and social studies. The alternate assessment is designed to allow students with the most significant cognitive disabilities to demonstrate their knowledge and skills.

The data analysis demonstrates a consistent reduction in the participation rate of students with disabilities, across subject areas, for Michigan's alternate assessment. From 2019 to 2021 (there were no assessments in 2020), the participation rate decreased from 2.1 percent to 1.7 percent in ELA, from 2.0 percent to 1.7 percent in mathematics, and from 1.9 percent to 1.8 percent in science.

MDE communicated to the public its intent to request an extension of the waiver to exceed the 1.0 percent cap on alternate assessment participation in 2022. The state department sent a [memorandum](#), dated November 4, 2021, to local and intermediate school district (ISD) superintendents and public school academy (PSA) directors, ISD and LEA/PSA special education directors, and the statewide education associations. In addition, MDE issued a statewide press release, posted a copy of the memorandum on the Michigan Alliance for Families' parent training and information center website, and published an article in the Office of Educational Assessment and Accountability's statewide weekly newsletter. The notices are provided below, as Attachment 1.

MDE also requested public comment on the request to extend the waiver to exceed the 1.0 percent cap on alternate assessment participation, which was gathered through an online questionnaire. The public comment period opened on November 4, 2021 and closed on December 3, 2021. Michigan had 37 total respondents who provided public comment on open-ended prompts in the survey. Not all prompts received responses from all respondents.

The survey was introduced with the following description:

Michigan's alternate assessment (MI-Access) is aligned with Michigan's alternate content standards in English language arts (ELA), mathematics, science, and social studies. The alternate assessment is designed to allow students with the most significant cognitive disabilities to demonstrate their knowledge and skills.

The federal Every Student Succeeds Act (ESSA) caps the percentage of students who can take the alternate assessment at 1.0 percent of the total students tested. The ESSA also allows states that may exceed the 1.0 percent cap to apply for a one-year waiver. Michigan was granted the initial waiver of the 1.0 percent cap on May 14, 2018. In 2019 and 2021, as provided under the ESSA, Michigan applied for and received an extension to the waiver of the 1.0 percent cap on the participation rate for students taking the alternate assessment. As part of the federal waiver, MDE agreed to implement a plan to ensure students are properly assessed using the state assessment system programs. Michigan's 2020 waiver request was rescinded

when assessment requirements were waived due to the COVID-19 pandemic and subsequent school closures.

Analysis of the 2020–2021 state assessment data, when compared to 2018–2019 data, shows a reduction in the participation rate for the alternate assessment in Michigan from 2.0 percent to 1.7 percent in mathematics, from 2.1 percent to 1.7 percent in ELA, and from 1.9 percent to 1.8 percent in science.

Although progress has been made, more work needs to be done to ensure appropriate assessment and corresponding curriculum selection for students with the most significant cognitive disabilities. Therefore, Michigan will be applying for a waiver extension for spring 2022, which will include a plan for continued improvement.

There were four prompts provided as part of the request for public comment. The comments, sorted by prompt, are listed below. **Please note that comments are copied exactly as they were written:**

### **Prompt #1**

MDE completed the following activities related to alternate assessment selection and the 1.0 percent cap during the 2020–2021 school year:

- Reduced statewide participation in the alternate assessment by 0.1 percent or more.
- Made Spring 2021 alternate assessment data available on the special education electronic monitoring system.
- Provided universal professional development and technical assistance to special education administrators, teachers, related service providers, and parents.
- Directed local education agency staff to an online, interactive decision-making tool to assist with appropriate assessment selection and curriculum alignment.

Please provide comment on the activities completed in 2020–2021 and suggestions for additional activities for the 2021–2022 school year.

### **Prompt #1 Comments**

1. These activities appear to be fine except "reduced statewide participation in the alternate assessment by 0.1 percent. Rationale: School systems are comprised of human beings not inanimate objects that can be counted. The health of human beings in any one district is affected by many factors including genetics and toxic poisons in products, food, the soil, air and water. Lead ingested by young human beings still growing has been found to reduce mental capacity. This is why years ago lead has been outlawed in paints, gasoline, etc. Michigan has a lead in drinking water problem and more communities are being identified. PFAS have recently been identified as permanent toxins and are now not only in various products consumers use and ingest, but also are in the soil, local rivers and Lake Huron which supplies drinking water to numerous communities. PFAS cause many health issues. Flint which is the first community with a known lead in drinking water

- issue can be used as an example of possible unfairness in assessment as the 0.1 percent is far above this number.
2. The decision tree could be changed as my staff indicate that they are following it for students that do not fit the "most significant impaired" statement.
  3. I believe that alternate assessments should not have a cap but should always be based on need. The activities helped to fully describe and support IEP teams with making a choice on alternate assessments. I think IEP teams, including parents, should not feel that they may be putting their teacher, school, and district at risk if they determine the alternate assessment is appropriate.
  4. These are great steps and helping to reach the 1% law.
  5. These tools have been helpful but the population that falls into the Mild Cognitive Impairment range continues to be difficult to assess. If districts include students who fall in that range, we will almost always be over 1%.
  6. MDE has a great list of resources and tools, and has made a coordinated effort, to address the requirement and to support districts and teams.
  7. Possibly focus TA on districts that have not decreased in the number of Students administered an alternative assessment.
  8. Districts will require support for helping those students who border between the alternate assessment criteria and standard assessment criteria. Our ISD only told us to reduce the number of students taking the alternate assessment with minimal guidance. Support for systemic changes in districts and with collaborative programs to meet the needs of students is imperative.
  9. Continue with the above action items.
  10. The interactive decision making tool is helpful. These strategies over the last several years have helped educators and districts to improve their decision making processes.
  11. It may be helpful to design some training modules or videos that districts can use with parents that explain what the alternate assessment is, what it is aligned to, and the implications.
  12. I have trained and require teachers to use the design-making tool during IEP meetings with families when considering the option of an alternate assessment.

### **Prompt #2**

The ESSA requires MDE to collect and submit justification for exceeding the 1 percent cap on alternate assessment. In 2020–2021, justification forms were collected electronically using Catamaran, an electronic IDEA compliance monitoring system. Technical assistance was provided to ISDs and member districts on how to submit data using Catamaran. Technical assistance recommendations were made, and information shared between MDE and ISDs using Catamaran. Justification forms are available for review online: [https://www.michigan.gov/mde/0,4615,7-140-22709\\_28463-459598--,00.html](https://www.michigan.gov/mde/0,4615,7-140-22709_28463-459598--,00.html).

Please provide comment on the use of Catamaran to meet justification requirements.

### **Prompt #2 Comments**

1. Eliminate entirely the "reduced statewide participation limit..." It is micromanaging. Allow the professional educators that work with these students every day to make the decision of "alternate assessment" is needed. Alternate assessment would best be allowed for ADHD, ADD, etc. for students who are not visibly or obviously impaired.
2. Catamaran works fine.
3. The justification forms are appropriate and fine. IEP teams, including parents, should not feel that they may be putting their teacher, school and district at risk if they determine the alternate assessment is appropriate.
4. No comment, I did not submit justification
5. Collecting information in Catamaran worked fine once we understood the process. It did take a couple of revisions of the information the first time to complete it.
6. It would be helpful if Justification forms were only required to be completed by districts when they exceed 1% as opposed to all districts
7. I liked the convenience of completing through the catamaran system.
8. It was fine for a data collection method. However, no opportunity to indicate adjustment of programming, curriculum, etc. was available.
9. Catamaran is a monitoring system that allows the state to have the appropriate data needed.
10. This tool is helpful in documenting justification of individual district assessment projections.
11. I feel there should be a waiver for a district that hosts regional (7 school districts) low incidence programs for students with cognitive impairments. I appreciate the desire to lower the number of students taking the alternate assessment, but our numbers appear inflated simply because we host this program. Outside of these regional classrooms, we average 2-3 students (in a district of 2400-2500 students) who take the alternate assessment. It feels like unnecessary additional time and paperwork.

### **Prompt #3**

Given the lack of testing in Spring 2020 and lower overall participation in Spring 2021, there is less reliable statewide assessment data available to provide justification to MDE regarding assessment participation rates. In the 2020–2021 school year, projected rates were used in MDE’s application for the 1 percent cap waiver. For the 2021–2022 school year, the application requires MDE to provide 2021 pre-ID data or projected participation rates for Spring 2022 based on student IEP data. This data will:

- Aid in the application to extend the U.S. Department of Education waiver for the 1% cap on participation in the alternate assessment, due January 13, 2022.
- Provide current information on participation rates to districts. This information can help districts determine training needs and support the monitoring of participation rates.

Please provide comment on the use of pre-ID data or projected participation rates for Spring 2022, based on student IEP data.

**Prompt #3 Comments:**

1. See my above comment. Also, if the amount of energy and time it takes to plan, apply, determine alternative assessment and needs were applied to actual individual needs teaching, we would be far ahead in our success as educators. Assessment has become a diversion from actual learning.
2. That works
3. I support extending waiver for the 1 percent cap on participation beyond 2022.
4. It is a good idea to provide this information to districts in a timely manner to help determine supports needed.
5. Projected participation rates appear to be the more reliable data for our district.
6. Support this plan
7. Pre-ID Data would be the simplest to utilize
8. These methods are adequate as they should come from IEP team decisions.
9. Base the participation rates on the previous known data from 2020. Plus, with the increase in drug convictions there may be an increase in students who are born to drug users who qualify to use the MI-ACCESS test.
10. Projection rates based on student IEP data is a more reliable measure of participation rates than previous year's numbers. Previous years rates do not necessarily dictate the next year's numbers.
11. When will justification forms be available to complete?
12. see previous comment

**Prompt #4**

The MDE's focus regarding participation in the alternate assessment (MI-Access) will remain:

- Providing technical assistance needed for IEP teams to make decisions about the appropriate assessment for each and every student with a disability.
- Determining technical assistance needed for IEP teams to target instruction to each student's unique needs, encourage high expectations for all students, and understand expectations regarding the use of state content standards and/or alternate content standards.

Please provide comment on MDE's focus regarding participation in the alternate assessment.

**Prompt #4 Comments**

1. See my above comments. It is important to not micromanage and not provide cookie cutter solutions for the teaching of human beings who come to the learning table with individual learning needs different from every other human being in the learning environment. The important assessing takes place when the teacher focuses on each individual noting learning gaps that must be filled. What students already know the teacher discovers quickly. Daily assessments and adjustments must take place as the teacher addresses her lessons to the learning styles and learning needs of each student. These daily teacher assessments range from observation, little fun challenges, interviews with students, written, verbal, physical tasks and art. The problem that these state assessment testing agendas create is an "off

task" interruption of the exciting flow of learning. Now, instead of addressing the individual learning needs of students, mountains of time are stolen to prepare for the "test" instead. It not only takes away from the excitement of learning but the joy of teaching. Teaching is an Art. State Assessment put the teacher in a straight jacket. What assessment does well is employ a lot of people to design, plan and carry it out as well as the people who correct the tests. So State Assessment are great for creating jobs.

2. Again, I feel that the decision tree could be redone to match more of student's with the most significant disabilities, while it may be difficult examples of how far behind a student would be may be helpful.
3. Please monitor the number of programs housed on behalf of other districts in a LEA. Our district houses several county wide center based programs which may increase our 1% cap for students taking Mi-Access
4. The issue that I have is with the selection of a 1% cap on students taking the alternate assessment. From a statistical perspective it makes no sense. Statistical norms dictate that students falling at the 2nd percentile or below are at least 2 standard deviations below the mean and considered impaired. It follows that a participation rate of 1.7% on Mi-ACCESS makes statistical sense. To expect all students that fall between the 1st and 2nd percentile take the M-STEP is unrealistic. Some in this group may be able to take this assessment, but certainly not all, and that is where the IEP team decision process comes into play. I firmly believe that a 2% cap on the MI-ACCESS participation rate, based on statistical norms, is a much more accurate representation to work toward.
5. I support assistance for IEP teams, including parents, to target instruction. I would like to see the state of Michigan support curriculum for our low incident population students taking the alternate assessments.
6. Continue to provide technical assistance and professional development to teachers and districts to ensure we are heading to the 1% cap.
7. This is very helpful.
8. The assistance for these two bullets needs to be an immediate focus. Perhaps an assessment measure that is a modification to the state assessment would be appropriate rather than such discrepancy between the two levels of assessment and standards.
9. If we are to test students, we need to use a test that meets the students' needs and gives us an accurate view of the child's abilities and needs. 1% is an arbitrary number as in some districts, based on families who are enrolled, the special education numbers are higher which in turn leads to higher numbers for students who need the MI-ACCESS assessment.
10. The tools that have been provided over the last several years have been very helpful, however at the same time, it feels almost "punitive" to assign a student to take the state assessment in order to comply with the 1% participation rate. Students who are on the "bubble" with mild cognitive impairments and severe learning disabilities are "forced" to take the state assessment which is extremely difficult for them and they are unable to show proficiency due to their disability regardless of the high expectations for learning for these students. There is no amount of technical assistance that will change this teams who have to make these decisions.

11. See all of the above comments. I feel MDE has done a good job in educating us on how to select the appropriate assessment and has made a tool available to be utilized with parents.

MDE appreciates individuals taking the time to provide feedback. All public comment feedback has been reviewed and considered. Based on some common threads, the MDE would also like to add the following information for consideration:

1. The department remains committed to increasing professional development opportunities, providing technical assistance tools, and presenting innovative approaches to make continued progress toward meeting the 1.0 percent cap, considering the threshold and requirements set by the federal Every Student Succeeds Act (ESSA). Technical assistance tools are designed for IEP teams, administrators, and parents.
2. Michigan continues to underscore the requirement for IEP teams to determine appropriate assessment participation on an individual student basis. MDE's Office of Educational Assessment and Accountability (OEAA) and Office of Special Education (OSE) will continue to work with all districts to ensure IEP teams understand the federal requirements, are aware of state efforts, have the proper training and tools, and are empowered to make appropriate assessment selections based on an individual student basis.
3. The department is working with ISDs to build awareness with districts, IEP teams, and parents that 1.0 percent cap activities are not about getting below 1.0 percent. 1.0 percent cap activities are intended to increase the utilization of available decision-making tools by IEP teams. The intent is to increase the selection of appropriate assessment tools on an individual student basis to measure academic competencies.
4. The State of Michigan is cognizant of the many students for whom an alternate assessment is necessary and will continue to provide a valid and reliable assessment to meet their needs. There continues to be evidence to suggest that not all students who currently participate in the alternate assessment were appropriately determined. The purpose of a statewide plan is to ensure students taking the alternate assessment meet the guidelines for participation.
5. MDE appreciates the need for local districts to have access to the data necessary to provide justification to the state. Catamaran has been enhanced in an effort to continue to make the process easier and data readily available for districts. Local districts have the ability to request access to Catamaran for any designated staff members within the district.
6. MDE plans to address instruction and the use of alternate content expectations.
7. While MDE publicly posts the justification forms on its website, there are no requirements for local or intermediate school districts to post.

**Requirements:** ESSA stipulates several requirements for this waiver. MDE's response to each requirement is found below. Please note the data provided is information from the most recent testing window in which state assessments were administered.

**Requirement 1: Submit the waiver request at least 90 days before the testing window starts for the relevant subject.**

The testing window for all state summative assessments in Michigan begins April 11, 2022. Specifically, the seven-week testing window for MI-Access (the state summative AA-AAAS) is from April 11, 2022, through May 27, 2022. This waiver is being requested 90 days prior to this testing window.

**Requirement 2 (A): Provide state-level data from the current or previous year that shows the number and percent in each subgroup who took the alternate assessment in the subject area.**

For the 2020-2021 school year, the state required all districts to submit a projection of students designated to take the alternate assessment, as assessments were not completed in 2020. A compilation of the data resulted in a statewide aggregate projection rate for students taking the alternate assessment of 1.87 percent. As shown in Table 1 below, the actual rate of alternate assessment for Spring 2021 was slightly lower than this, and the downward trend remains consistent with the 0.1 percent annual reduction in alternate assessment use observed in Michigan in past years. MDE remains optimistic this trend will continue into future years.

*Table 1: 2020 – 2021 Participation in Alternate Assessment, MI-Access, by Content Area and Demographic Sub-Group*

<b>Demographic Sub-group</b>	<b>Number of Students Tested Using an Alternate Assessment</b>	<b>Total Number of Students Tested</b>	<b>Percent of Students Tested Using an Alternate Assessment</b>
<b>English Language Arts (Grades 3-8 and 11)</b>			
<b>All Students</b>	<b>8,991</b>	<b>528,271</b>	<b>1.7%</b>
Male	5,943	270,108	2.2%
Female	3,048	258,163	1.2%
English Learner	491	30,493	1.6%
Economically Disadvantaged	5,665	248,644	2.3%
Native American	75	3,437	2.2%
Asian	209	18,691	1.1%
African American	1,515	60,291	2.5%
Hispanic	670	40,347	1.7%
Pacific Islander	10	464	2.2%
White	6,084	381,806	1.6%
Multi-Racial	428	23,235	1.8%
<b>Mathematics (Grades 3-8 and 11)</b>			
<b>All Students</b>	<b>8,711</b>	<b>526,436</b>	<b>1.7%</b>
Male	5,736	269,099	2.1%
Female	2,975	257,337	1.2%
English Learner	480	30,533	1.6%

Demographic Sub-group	Number of Students Tested Using an Alternate Assessment	Total Number of Students Tested	Percent of Students Tested Using an Alternate Assessment
Economically Disadvantaged	5,472	247,120	2.2%
Native American	73	3,419	2.1%
Asian	200	18,755	1.1%
African American	1,443	59,751	2.4%
Hispanic	651	40,170	1.6%
Pacific Islander	10	460	2.2%
White	5,915	380,801	1.6%
Multi-Racial	419	23,080	1.8%
<b>Science (Grades 5, 7, 8 and 11)</b>			
<b>All Students</b>	<b>3,665</b>	<b>205,466</b>	<b>1.8%</b>
Male	2,406	105,519	2.3%
Female	1,259	99,947	1.3%
English Learner	201	9,761	2.1%
Economically Disadvantaged	2,239	91,434	2.4%
Native American	16	1,439	1.1%
Asian	76	6,991	1.1%
African American	577	21,497	2.7%
Hispanic	282	15,183	1.9%
Pacific Islander			
White	2,541	151,857	1.7%
Multi-Racial	169	8,310	2.0%

**Requirement 2 (B): Provide state-level data from the current or previous year that shows the overall assessment participation rate for all students and for students with disabilities.**

Due to the COVID-19 pandemic and the federal accountability waiver, Michigan had fewer than 95 percent of all students participate in statewide summative assessments for the most recent testing cycle in Spring 2021. Despite most schools offering hybrid options at the time and some schools only offering or primarily offering remote instruction, roughly 72 percent of all students still participated in statewide summative assessments offered exclusively at their local school buildings. The participation rate for students with disabilities—a sub-population with a higher proportion of medically fragile students engaging in remote learning—was quite similar to the overall participation rate, at 67 percent (see Table 2 below).

*Table 2: 2020 – 2021 Students Participating in State Summative Assessment (M-STEP, MME, MI-Access), Overall and for Students with Disabilities by Content Area*

Demographic Sub-group	Number of Students with Valid Tests	Number of Students Expected to Test	Percent of Students Participating in State Tests
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<b>English Language Arts (Grades 3-8 and 11)</b>			
<b>All Students</b>	<b>528,271</b>	<b>732,437*</b>	<b>72.1%</b>
Students with Disabilities	66,073	98,540	67.1%
<b>Mathematics (Grades 3-8 and 11)</b>			
<b>All Students</b>	<b>526,436</b>	<b>732,437*</b>	<b>71.9%</b>
Students with Disabilities	65,531	98,540	66.5%
<b>Science (Grades 5, 7, 8 and 11)</b>			
<b>All Students</b>	<b>205,466</b>	<b>319,346*</b>	<b>64.3%</b>
Students with Disabilities	24,691	41,420	59.6%

\*Note: Number of students expected is based on enrollment counts in tested grades during the Spring 2021 student counts and data collection window. *EDFacts* tables with enrollments based on test registration time were not yet available in time for this waiver. These two count windows generally provide very similar counts and participation rates.

As per USED guidance on handling the 95 percent overall participation requirements for statewide summative assessments during the pandemic, in Table 3, we provide the most recent pre-pandemic participation rates from the Spring 2019 assessments. As depicted in this table, Michigan has met the 95 percent participation rate requirement in the past, both overall and for all demographic sub-groups of students.

*Table 3: Pre-Pandemic (2018 – 2019) Total Students Participating in State Summative Assessment (M-STEP, MME, MI-Access), by Content Area and Demographic Sub-group*

<b>Demographic Sub-group</b>	<b>Number of Students with Valid Tests</b>	<b>Number of Students Expected to Test</b>	<b>Percent of Students Participating in State Tests</b>
<b>English Language Arts (Grades 3-8 and 11)</b>			
<b>All Students</b>	<b>751,047</b>	<b>761,766</b>	<b>98.6%</b>
Students with Disabilities	96,704	99,431	97.3%
Male	384,384	389,628	98.7%
Female	368,093	372,138	98.9%
English Learner	52,004	53,581	97.1%
Economically Disadvantaged	391,897	399,106	98.2%
Native American	4,669	4,760	98.1%
Asian	25,849	26,441	97.8%
African American	131,903	134,861	97.8%
Hispanic	60,578	61,703	98.2%
Pacific Islander	606	609	99.5%

<b>Demographic Sub-group</b>	<b>Number of Students with Valid Tests</b>	<b>Number of Students Expected to Test</b>	<b>Percent of Students Participating in State Tests</b>
White	496,206	501,734	98.9%
Multi-Racial	31,236	31,658	98.7%
<b>Mathematics (Grades 3-8 and 11)</b>			
<b>All Students</b>	<b>728,009</b>	<b>761,766</b>	<b>95.6%</b>
Students with Disabilities	97,128	99,431	97.7%
Male	384,384	389,628	98.7%
Female	368,093	372,138	98.9%
English Learner	51,426	53,581	96.0%
Economically Disadvantaged	392,609	399,106	98.4%
Native American	4,674	4,760	98.2%
Asian	26,277	26,441	99.4%
African American	132,081	134,861	97.9%
Hispanic	60,888	61,703	98.7%
Pacific Islander	606	609	99.5%
White	496,709	501,734	99.0%
Multi-Racial	31,242	31,658	98.7%
<b>Science (Grades 4, 5, 7, 8 and 11)</b>			
<b>All Students</b>	<b>323,121</b>	<b>329,689</b>	<b>98.0%</b>
Students with Disabilities	40,266	42,144	95.5%
Male	164,547	168,177	97.8%
Female	158,574	161,512	98.2%
English Learner	19,981	20,353	98.2%
Economically Disadvantaged	159,232	163,793	97.2%
Native American	2,076	2,136	97.2%
Asian	11,491	11,580	99.2%
African American	54,354	56,246	96.6%
Hispanic	25,498	26,053	97.9%
Pacific Islander	246	247	99.6%
White	217,286	220,992	98.3%
Multi-Racial	12,170	12,435	97.9%

**Requirement 3 (A): Provide assurance that districts over 1.0 percent participation in the alternate assessment followed the state’s participation guidelines.**

For the 2021–2022 school year, MDE is continuing to use justification forms as the mechanism to collect individual LEA and ISD participation rate data. Justification forms are also the mechanism for LEAs and ISDs to provide justifications for exceeding the 1.0 percent cap and plans for continuous improvement in preparing IEP teams to determine appropriate assessment selection for students with disabilities by following the state’s participation guidelines. MDE will also continue to develop and provide technical assistance through guidance, trainings, and other resources specific to alternate assessment selection. Many LEAs have provided training to staff and parents regarding the state guidelines for participation in the alternate assessment. In their comments about training, a majority of LEAs cited resources provided by MDE as being used at the local level, including the assessment selection flowchart, the online assessment selection guidelines training module, and the assessment selection IEP team interactive decision-making tool.

**Requirement 3(B): Provide assurance that any disproportionality in students taking the alternate assessment will be addressed.**

Michigan examined disproportionality in participation on its state alternate assessment (MI-Access) based on the most recent test cycle (Spring 2021) for statewide summative assessments. Disproportionality was examined for the following demographics:

1. Gender
  - a. Male
  - b. Female
2. Economic Disadvantage (based on poverty risk factors such as free/reduced lunch eligibility, homelessness, migrant status, and direct certification for government food assistance)
  - a. Disadvantaged
  - b. Not Disadvantaged
3. Racial/Ethnic Groups
  - a. Native American
  - b. Asian
  - c. African American or Black
  - d. Pacific Islander
  - e. Hispanic
  - f. White
  - g. Two or More Races
4. English Language Learners Status
  - a. Participating in an English learner program
  - b. Not participating in an English learner program

To determine whether substantive disproportionality affected any subgroups of students, Michigan used a relative risk ratio method to analyze the rate of participation in alternate assessments. For other federal reporting (e.g., in the Annual Performance Report), Michigan uses multiple years of data and a threshold risk ratio of 2.5 for each demographic subgroup. For assessments, this threshold means students in one demographic are participating in the alternate assessment 2.5 times more often than students who are not in the same demographic. A relative risk ratio of 1.0 means students in one demographic participate in the

alternate assessment at the same rate as students who are not in the same demographic.

As depicted in Tables 4 through 6, Michigan did not identify any sub-group of students tested using alternate assessments at a significantly disproportionate rate (i.e., with a relative risk of 2.5 or more) statewide. The sub-group of students with the highest relative risk ratio (economically disadvantaged students) had a relative risk of 1.9, and the risk of disproportionately being tested with alternate assessments for this group has continued to decrease every year since Michigan applied for the first waiver. In 2021, it dropped below the elevated risk threshold of 2.0 for the first time.

*Table 4: Disproportionate Alternate Assessment Participation by Demography (SY 2020-2021) for English Language Arts*

<b>Simple Groups</b>	<b>Group Rate Comparison (In-group vs. not)</b>	<b>Risk Ratio</b>
Gender (Male vs Female)	2.2% vs. 1.2%	1.83
Economic Disadvantage	2.3% vs. 1.2%	1.93
English Language Learner	1.6% vs. 1.7%	0.94
<b>Multi-Groups: Race/Ethnicity</b>	<b>Group Rate Comparison (In-group vs not)</b>	<b>Risk Ratio</b>
Native American	2.2% vs. 1.7%	1.30
Asian	1.1% vs. 1.7%	0.64
African American	2.5% vs. 1.6%	1.56
Hispanic	1.7% vs. 1.7%	1.00
Pacific Islander	2.2% vs. 1.7%	1.29
White	1.6% vs. 2.0%	0.81
Two or More Races	1.8% vs. 1.7%	1.06

**Note:** Risk ratios between 2.0 and 2.4 are considered elevated risk, and risk ratios  $\geq 2.5$  are considered disproportionately high representation among students taking the alternate assessment.

*Table 5: Disproportionate Alternate Assessment Participation by Demography (SY 2020-2021) for Math*

<b>Simple Groups</b>	<b>Group Rate Comparison (In-group vs. not)</b>	<b>Risk Ratio</b>
Gender (Male vs Female)	2.1% vs. 1.2%	1.75
Economic Disadvantage	2.2% vs. 1.2%	1.90
English Language Learner	1.6% vs. 1.7%	0.96
<b>Multi-Groups: Race/Ethnicity</b>	<b>Group Rate Comparison (In-group vs. not)</b>	<b>Risk Ratio</b>
Native American	2.1% vs. 1.7%	1.27
Asian	1.1% vs. 1.7%	0.66
African American	2.4% vs. 1.6%	1.54
Hispanic	1.6% vs. 1.7%	0.97
Pacific Islander	2.2% vs. 1.7%	1.33
White	1.6% vs. 1.9%	0.83
Two or More Races	1.8% vs. 1.6%	1.09

**Note:** Risk ratios between 2.0 and 2.4 are considered elevated risk, and risk ratios  $\geq 2.5$  are considered disproportionately high representation among students taking the alternate assessment.

*Table 6: Disproportionate Alternate Assessment Participation by Demography (SY 2020-2021) for Science*

<b>Simple Groups</b>	<b>Group Rate Comparison (In-group vs. not)</b>	<b>Risk Ratio</b>
Gender (Male vs Female)	2.3% vs. 1.3%	1.77
Economic Disadvantage	2.4% vs. 1.8%	1.92
English Language Learner	2.1% vs. 1.3%	1.19
<b>Multi-Groups: Race/Ethnicity</b>	<b>Group Rate Comparison (In-group vs not)</b>	<b>Risk Ratio</b>
Native American	1.1% vs. 1.8%	0.62
Asian	1.1% vs. 1.8%	0.61
African American	2.7% vs. 1.7%	1.61
Pacific Islander	1.9% vs. 1.8%	1.07
Hispanic	2.1% vs. 1.8%	1.18
White	1.7% vs. 2.1%	0.81
Two or More Races	2.0% vs. 1.8%	1.13

**Note:** Risk ratios between 2.0 and 2.4 are considered elevated risk, and risk ratios  $\geq 2.5$  are considered disproportionately high representation among students taking the alternate assessment.

Additionally, for each LEA, Michigan examined the two most recent years of alternate assessment participation in mathematics and ELA. Districts that tested the same sub-group of students 2.5 times more often than students who were not in that sub-group were flagged for more targeted supports and review as part of the justification form and review process. As part of their targeted guidance, these findings have been shared with ISDs and districts, and ISD staff will be trained to identify and target districts with substantively high disproportionate use of alternate assessments. For districts to be included in the disproportionality analyses and identification process, two minimum N-sizes were employed for each year of data:

1. Districts with 30 or more total students tested using the alternate assessment were examined for over-assignment.
2. Districts with at least ten students from any demographic subgroup tested using the alternate assessment were evaluated for over-assignment of that subgroup.

**Requirement 4 (A): Submit a plan and timeline by which the state will improve the implementation of its participation guidelines, including if necessary, revising its definition of “students with the most significant cognitive disabilities” in future school years.**

Each ISD has implemented monitoring procedures and evaluation methods developed by the department to ensure the standards and criteria related to assessment selection are being achieved by the ISD, their constituent districts, and PSAs.

In addition, MDE established a three-tiered system to provide additional oversight and support to LEAs that assess more than 1.0 percent of students using the alternate assessment. This tiered system originated as part of the plan implemented in 2018-2019 and will continue in 2021-2022 with updated criteria.

- Tier I, provided for all LEAs:
  - Communications regarding the training available online.
  - In-person training on assessment selection, as requested by ISDs or LEAs (the following trainings have been provided in the past):
    - Michigan Council for Exceptional Children (MCEC) Supervisors of Low Incidence Programs Conference
    - Michigan School Testing Conference
    - Michigan Council for Exceptional Children Conference
    - Michigan Association for Administrators of Special Education (MAASE) Summer Institute
    - MAASE Community of Practice
    - Area 3 at Van Buren ISD for a professional development event
      - ❖ Included participation from schools within Van Buren ISD, Allegan Area Educational Service Agency (ESA), Kalamazoo Regional Educational Service Agency (RESA), Lewis Cass ISD, Hillsdale ISD, West Shore Educational Service District (ESD)
    - Macomb ISD professional development event
    - Kent ISD professional development event
    - Muskegon Area ISD professional development event
  - Existing resources and resources that will be developed by MDE, ISDs, or LEAs for others to access and use (such as developing standards-based IEPs based on alternate content expectations).
- Tier II, for LEAs whose participation rate exceeds 1.8 percent or whose data indicate issues of disproportionality in state testing for students with disabilities.
  - As part of the justification forms, ISDs will develop and update plans for supporting each LEA that exceeds 1.8 percent.
  - ISDs provide a list of LEAs that require support and a plan for that support.
- Tier III, for LEAs whose participation rates fall within the highest 3.0 percent of all participation rates in the state, or whose participation rate exceeds 1.8 percent and whose data indicate issues of disproportionality in state testing for students with disabilities.
  - The ISD and/or MDE personnel will develop individual plans for support for the LEAs falling into Tier III.
    - In the past, MDE provided direct technical assistance for the following LEAs, in cooperation with their ISDs:
      - ❖ Benton Harbor Area Public Schools
      - ❖ Pontiac School District
      - ❖ Eastpointe Community Schools
      - ❖ Fitzgerald Public Schools
      - ❖ Mount Clemens Community Schools
- For any LEA designated as Tier II or Tier III that was also an MDE Partnership District at the time of review, the LEA's plan will be shared with district liaisons from the MDE Office of Partnership Districts for potential assistance in implementation and monitoring.

MDE created a formal definition of students with the most significant cognitive disabilities during the 2019-2020 school year. This definition was shared in draft form for feedback during Tier I and Tier III events, ISD special education director's meetings, OSE data advisory committee meetings, and regional ISD monitor meetings. It was also included in the public comment request completed for this waiver application. The definition is embedded in MDE's assessment selection flow chart, online assessment selection guidelines training, and the IEP interactive decision-making tool. The definition is:

Students with the most significant cognitive disabilities, for the purpose of determining instructional targets and state assessment selection, have a disability or multiple disabilities that significantly impact intellectual functioning and adaptive behavior.

Adaptive behaviors are essential to live independently and to function safely in daily life. When adaptive behaviors are significantly impacted, the individual is unlikely to develop the skills necessary to live independently and function safely in daily life.

Students with the most significant cognitive disabilities are supported with an Individualized Education Program (IEP), and the instruction is based on Michigan's alternate content standards in English language arts (ELA), mathematics, science, and/or social studies.

Significant cognitive disabilities impact students both in and out of the classroom and across multiple life domains, including academic domains.

Special Note: MI-Access is not designed for most students whose primary disability is a specific learning disability, speech language impairment, emotional impairment, or other health impairment.

MDE has not received any new feedback regarding the need to revise the definition of students with the most significant cognitive disabilities since the initial feedback following the 2019 waiver approval. The establishment of the definition played a significant role in facilitating appropriate assessment selection and reducing the number of students taking the alternate assessment to 1.7 percent. MDE will continue to use the definition that was established in 2019-2020 for the 2021-2022 school year.

MDE will continue to post the ISD justification summaries submitted for the 2021-2022 school year, which will include individual plans for ensuring appropriate assessment selection from each year.

**Requirement 4 (B): Submit a plan and timeline by which the state will take additional steps to support and provide appropriate oversight to each LEA that the state anticipates will assess more than 1.0 percent with the alternate assessment.**

MDE uses the tiered system of support to sort LEAs for the purpose of providing oversight and technical assistance. The cut scores for inclusion in Tier II and Tier III have been reduced from 2.0 percent to 1.8 percent to reflect current participation rates.

For the 2021-2022 school year, ISDs and LEAs are submitting justification forms as a task in Catamaran. Catamaran is the electronic system used to complete

reporting and compliance tasks with MDE OSE. Both ISD and LEA forms are downloadable into accessible reports to be made available to members of the public, upon request.

MDE has recorded webinar workshops that provide technical assistance to LEAs and ISDs. The webinars have provided ongoing support during the pandemic, as school visits have not been an option. MDE continues to have direct input regarding LEAs meeting the requirements for Tier II and Tier III support.

Based on interactions with ISD and LEA personnel, MDE believes that LEAs may need additional support for IEP teams in properly targeting instruction for students with disabilities, particularly for students who fall outside of the definition of students with the most significant cognitive disabilities. MDE plans to put together a catalog of resources on this topic and to develop guidance for properly targeting instruction for students with disabilities, using state general content standards as the foundation.

**Requirement 4 (C): Submit a plan and timeline by which the state will address any disproportionality in the percentage of students taking the alternate assessment.**

There were no sub-groups in which the risk ratio would indicate a concern with disproportionality at the state level regarding participation in the alternate assessment. However, eighteen districts within the state were identified as disproportionately over-assigning some sub-group of students to alternate assessments, based on high-risk ratios for two testing cycles in a row. As part of the justification form approval process, ISDs are expected to facilitate conversations with all of their affected LEAs on the disproportionality list. In addition, any LEA assessing more than 1.0 percent of all students using the alternate assessment and flagged for disproportionality qualifies for Tier III status and must include a plan to address disproportionality in the justification forms submitted to their ISD.

**Requirement 5: Demonstrate substantial progress toward each component of the prior year's plan and timeline, which was required under Requirement 4 (c).**

Michigan has made substantial progress toward meeting the 1.0 percent cap requirement under each year of the waiver. This is evidenced by the reduction in students taking the alternate assessment from a high of 2.2 percent in Spring 2017 to a record low of 1.7 percent in Spring 2021. Furthermore, these reductions are greatest in earlier grades, suggesting sustained changes in practices that are likely to carry through as students matriculate to later grades. Additionally, the risk ratio for subgroups has improved across the assessment cycles, with the disparity in alternate assessment use for economically disadvantaged students reaching its lowest point in 2021. In addition to meeting all components of the plan detailed in Requirement 4A, MDE has expanded the plans for improvement by:

- Lowering the criteria in the three-tier system of support as outlined in Requirement 4A;
- Defining students with the most significant cognitive disabilities;
- Increasing LEA access to data needed for justifications;

- Increasing collaboration between the state and ISDs on justification review; and
- Enhancing the MDE focus to include a collaborative process for developing IEP team guidance for properly targeting instruction, as well as assessment selection, for students with disabilities.

The plan outlined in this waiver request is expected to result in continued reduction in the percentage and number of students taking the alternate assessment in the state of Michigan.

Sincerely,

A handwritten signature in black ink that reads "Michael F. Rice". The signature is written in a cursive, flowing style.

Michael F. Rice, Ph.D.  
State Superintendent

Attachment 1

[MDE communication regarding public comment November 4, 2021](#)

[Spotlight article regarding public comment November 12, 2021](#)

[Spotlight article regarding public comment November 18, 2021](#)

[Spotlight article regarding public comment December 2, 2021](#)